

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

LIBERTY MUTUAL INSURANCE)
COMPANY AND SUBSIDIARIES,)
)
 Plaintiff,)
)
 v.) Cnsl. Cv. No. 1:05-cv-11048-RCL
)
)
UNITED STATES OF AMERICA,)
)
)
 Defendant.)

LIBERTY MUTUAL FIRE INSURANCE)
COMPANY AND SUBSIDIARIES,)
)
 Plaintiff,)
)
 v.) Former Cv. No. 1:05-cv-11049-RCL
)
)
UNITED STATES OF AMERICA,)
)
)
 Defendant.)

DECLARATION OF DENNIS P. VAN MIEGHEM

I, Dennis P. Van Mieghem, hereby declare as follows:

1. In 1998, I retired as a Partner and Director of the National Insurance Tax Practice of the international accounting firm of KPMG, LLP. During my forty-year professional career with that firm, I served a large number of insurance clients in matters of taxation, acquisitions, corporate reorganizations, and accounting.

2. During the period of the late 1980's and early 1990's, I was involved in providing tax advice to at least 20 clients of various sizes which were property-casualty insurance companies.

3. My advice to these clients included how to implement the provisions of the Revenue Reconciliation Act of 1990 concerning salvage. In this connection, I generally inquired into how each client reported salvage on its NAIC Annual Statement.

4. In this declaration, I refer to lines of business and loss reserves for which an insurance company reflected estimated salvage on their Annual Statement as Net Lines because the estimated salvage reduced the company's unpaid loss reserves and thus its losses incurred reported on the Annual Statements. Similarly, I refer to lines of business and reserves for which a company did not reflect estimated salvage on their Annual Statement as Gross Lines because the unpaid loss reserves were reported gross of estimated salvage.

5. Many of my clients had both Gross Lines and Net Lines on their Annual Statements for years 1989 and 1990, among others. Unpaid losses on the Auto Physical Damage line of business, for example, frequently were reported on a gross basis. The Workers' Compensation line, on the other hand, frequently was a Net Line. In addition, many of the mandatory insurance pools which a company was required by state regulators to participate in reported unpaid losses on a net basis. As a result, even a company which reported all of its direct business as Gross Lines would also have some Net Lines from these mandatory pools.

6. All of my clients that had both Gross and Net lines on their Annual Statement followed that Annual Statement treatment of salvage on their tax returns for 1989 and 1990, among other years, so that they reported some Net Lines and some Gross Lines for tax purposes.

I am not aware of the IRS even suggesting that following their Annual Statement treatment for salvage was improper.

7. Salvage is only one of many items that affect the calculation of loss reserves of property-casualty insurance companies. Because claims in a particular line of business, and even within a line of business, have different characteristics, it is typical that the accounting for salvage, as well as other items, can vary. This is part of the natural process of estimating an appropriate liability for incurred losses and fully consistent with recognized Annual Statement practice.

8. I am aware that most state insurance departments, in the period 1989-1990, did not allow estimated salvage to be taken into account as an asset on the Annual Statement. At the same time, I am not aware of any state insurance department that prohibited reporting of some Net Lines and other Gross Lines by a company on its Annual Statement.

9. In providing advice to my clients in the early 1990's, I was aware of the concern of taxpayers with Net Lines that the 1990 salvage statute could be misread to require that salvage be included in taxable income more than once ("double-counting"). I advised my clients not to take estimated salvage into account more than once on their 1990 income tax returns. At the extended due date for filing 1990 tax returns, the IRS had not issued any guidance allowing gross-up of unpaid losses for salvage. Nevertheless, I am not aware of any property-casualty insurance company that filed a 1990 tax return that double-counted salvage.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on November __, 2006.

Dennis P. Van Mieghem